

House File 2429 - Introduced

HOUSE FILE 2429
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 571)
(SUCCESSOR TO HSB 210)

A BILL FOR

1 An Act relating to Iowa's operating-while-intoxicated law and
2 license revocations, temporary restricted licenses, and
3 ignition interlock devices.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.2, subsection 3, paragraph c,
2 unnumbered paragraph 1, Code 2014, is amended to read as
3 follows:

4 Assessment of a fine of one thousand two hundred fifty
5 dollars. However, ~~in the discretion of the court,~~ if no
6 personal ~~or property~~ injury has resulted from the defendant's
7 actions, the court ~~may~~ shall waive ~~up to~~ six hundred
8 twenty-five dollars of the fine when the defendant presents to
9 the court ~~at the end of the minimum period of ineligibility~~
10 a temporary restricted license issued pursuant to section
11 321J.20.

12 Sec. 2. Section 321J.2, subsection 3, paragraph d, Code
13 2014, is amended by striking the paragraph.

14 Sec. 3. Section 321J.2, subsection 4, paragraph c, Code
15 2014, is amended by striking the paragraph.

16 Sec. 4. Section 321J.2, subsection 5, paragraph c, Code
17 2014, is amended by striking the paragraph.

18 Sec. 5. Section 321J.4, Code 2014, is amended by striking
19 the section and inserting in lieu thereof the following:

20 **321J.4 Revocation of license — conditional temporary**
21 **restricted license.**

22 1. *Revocation.* If a defendant is convicted of a violation
23 of section 321J.2, the defendant's driver's license or
24 nonresident operating privileges shall be revoked as follows:

25 a. *First offense.* If the defendant has had no previous
26 conviction or revocation under this chapter and the defendant's
27 driver's license or nonresident operating privilege has not
28 been revoked under section 321J.9 or 321J.12 for the occurrence
29 from which the arrest arose, the department shall revoke the
30 defendant's driver's license or nonresident operating privilege
31 for the following periods of time:

32 (1) Test result. One hundred eighty days if the defendant
33 submitted to chemical testing.

34 (2) Refusal to submit. One year if the defendant refused
35 to submit to chemical testing.

1 *b. Second offense.* If the defendant has had a previous
2 conviction or revocation under this chapter and the defendant's
3 driver's license or nonresident operating privilege has not
4 been revoked under section 321J.9 or 321J.12 for the occurrence
5 from which the arrest arose, the department shall revoke the
6 defendant's driver's license or nonresident operating privilege
7 for the following periods of time:

8 (1) Test result. One year if the defendant submitted to
9 chemical testing.

10 (2) Refusal to submit. Two years if the defendant refused
11 to submit to chemical testing.

12 *c. Third or subsequent offense.* Upon a plea or verdict
13 of guilty of a third or subsequent violation of section
14 321J.2, the department shall revoke the defendant's driver's
15 license or nonresident operating privilege for a period of six
16 years. The defendant shall not be eligible for a temporary
17 restricted license for one year after the effective date of the
18 revocation.

19 *d. Offense involving personal injury.* Upon a plea or
20 verdict of guilty of a violation of section 321J.2 which
21 involved a personal injury, the court shall determine in open
22 court, from consideration of the information in the file and
23 any other evidence the parties may submit, whether a serious
24 injury was sustained by any person other than the defendant
25 and, if so, whether the defendant's conduct in violation of
26 section 321J.2 caused the serious injury. If the court so
27 determines, the court shall order the department to revoke the
28 defendant's driver's license or nonresident operating privilege
29 for a period of one year in addition to any other period of
30 suspension or revocation. The defendant shall surrender to the
31 court any Iowa license or permit and the court shall forward it
32 to the department with a copy of the order for revocation.

33 *e. Offense involving a death.* Upon a plea or verdict of
34 guilty of a violation of section 321J.2 which involved a death,
35 the court shall determine in open court, from consideration of

1 the information in the file and any other evidence the parties
2 may submit, whether a death occurred and, if so, whether the
3 defendant's conduct in violation of section 321J.2 caused the
4 death. If the court so determines, the court shall order
5 the department to revoke the defendant's driver's license or
6 nonresident operating privilege for a period of six years. The
7 defendant shall not be eligible for any temporary restricted
8 license for at least two years after the revocation. The
9 defendant shall surrender to the court any Iowa license or
10 permit and the court shall forward it to the department with a
11 copy of the order for revocation.

12 2. *Revocation or denial period.* If a license or permit
13 to operate a motor vehicle is revoked or denied under this
14 section or section 321J.9 or 321J.12, the period of revocation
15 or denial shall be the period provided for such a revocation
16 or until the defendant reaches the age of eighteen whichever
17 period is longer.

18 Sec. 6. Section 321J.9, subsection 1, paragraphs a and b,
19 Code 2014, are amended to read as follows:

20 a. First offense. One year if the person has no previous
21 revocation under this chapter;~~and.~~

22 b. Second or subsequent offense. Two years if the person
23 has had a previous revocation under this chapter.

24 Sec. 7. Section 321J.9, subsection 2, Code 2014, is amended
25 by striking the subsection.

26 Sec. 8. Section 321J.12, subsection 1, paragraphs a and b,
27 Code 2014, are amended to read as follows:

28 a. First offense. One hundred eighty days if the person has
29 had no previous revocation under this chapter.

30 b. Second or subsequent offense. One year if the person has
31 had a previous revocation under this chapter.

32 Sec. 9. Section 321J.12, subsection 2, Code 2014, is amended
33 by striking the subsection.

34 Sec. 10. Section 321J.12, subsection 5, Code 2014, is
35 amended to read as follows:

1 5. Upon certification, subject to penalty of perjury, by the
 2 peace officer that there existed reasonable grounds to believe
 3 that the person had been operating a motor vehicle in violation
 4 of section 321J.2A, that there existed one or more of the
 5 necessary conditions for chemical testing described in section
 6 321J.6, subsection 1, and that the person submitted to chemical
 7 testing and the test results indicated an alcohol concentration
 8 of .02 or more but less than .08, the department shall revoke
 9 the person's driver's license or operating privilege for a
 10 ~~period of sixty~~ the following periods of time:

11 a. First offense. Sixty days if the person has had no
 12 previous revocation under this chapter, ~~and for a period of~~
 13 ~~ninety.~~

14 b. Second or subsequent offense. Ninety days if the person
 15 has had a previous revocation under this chapter.

16 Sec. 11. Section 321J.20, Code 2014, is amended to read as
 17 follows:

18 **321J.20 Temporary restricted license — ignition interlock**
 19 **devices.**

20 1. a. The department may, on application, issue a temporary
 21 restricted license to a person whose noncommercial driver's
 22 license is revoked under this chapter allowing the person to
 23 drive to and from the person's home and specified places at
 24 specified times which can be verified by the department and
 25 which are required by the person's full-time or part-time
 26 employment, continuing health care or the continuing health
 27 care of another who is dependent upon the person, continuing
 28 education while enrolled in an educational institution on a
 29 part-time or full-time basis and while pursuing a course of
 30 study leading to a diploma, degree, or other certification of
 31 successful educational completion, substance abuse treatment or
 32 support such as alcoholics anonymous, court-ordered community
 33 service responsibilities, and transport of the person's
 34 dependent minor child to and from child care when necessary
 35 for the person's full-time or part-time employment and for the

1 dependent child's educational activities, appointments with the
 2 person's parole or probation officer if the person's driver's
 3 license has not been revoked previously under section 321J.4,
 4 321J.9, or 321J.12 and, church or other religious institution
 5 attendance, or travel to and from a grocery store or gas
 6 station if any of the following apply:

7 (1) The person's noncommercial driver's license is revoked
 8 under section 321J.4 and the minimum period of ineligibility
 9 for issuance of a temporary restricted license has expired.
 10 This subsection shall not apply to a revocation ordered under
 11 section 321J.4 resulting from a plea or verdict of guilty of a
 12 violation of section 321J.2 that involved a death except for a
 13 revocation under section 321J.4, subsection 1, paragraph "c"
 14 or "e".

15 (2) The person's noncommercial driver's license is revoked
 16 under section 321J.9 and the person has entered a plea of
 17 guilty on a charge of a violation of section 321J.2 which
 18 arose from the same set of circumstances which resulted in
 19 the person's driver's license revocation under section 321J.9
 20 and the guilty plea is not withdrawn at the time of or after
 21 application for the temporary restricted license, and the
 22 minimum period of ineligibility for issuance of a temporary
 23 restricted license has expired.

24 (3) The person's noncommercial driver's license is revoked
 25 under section 321J.12, and the minimum period of ineligibility
 26 for issuance of a temporary restricted license has expired.

27 ~~b.~~ A temporary restricted license may be issued under this
 28 subsection if the person's noncommercial driver's license is
 29 revoked for two years under section 321J.4, subsection 2, or
 30 section 321J.9, subsection 1, paragraph "b", and the first three
 31 hundred sixty-five days of the revocation have expired.

32 ~~c.~~ b. This subsection does not apply to a person whose
 33 license was revoked under section 321J.2A or section 321J.4,
 34 subsection 4 or 6, or to a person whose license is suspended or
 35 revoked for another reason.

1 ~~d. Following the applicable minimum period of ineligibility,~~
2 ~~a temporary restricted license under this subsection shall~~
3 ~~not be issued until the applicant installs an ignition~~
4 ~~interlock device of a type approved by the commissioner of~~
5 ~~public safety on all motor vehicles owned or operated by the~~
6 ~~applicant in accordance with section 321J.2, 321J.4, 321J.9,~~
7 ~~or 321J.12. Installation of an ignition interlock device~~
8 ~~under this subsection shall be required for the period of time~~
9 ~~for which the temporary restricted license is issued and for~~
10 ~~such additional period of time following reinstatement as is~~
11 ~~required under section 321J.17, subsection 3.~~

12 2. ~~a.~~ Notwithstanding section 321.560, the department may,
13 on application, and ~~upon the expiration of the minimum period~~
14 ~~of ineligibility for a temporary restricted license provided~~
15 ~~for under section 321.560, 321J.4, 321J.9, or 321J.12, issue a~~
16 temporary restricted license to a person whose noncommercial
17 driver's license has either been revoked under this chapter, or
18 revoked or suspended under chapter 321 solely for violations
19 of this chapter, or who has been determined to be a habitual
20 offender under chapter 321 based solely on violations of
21 this chapter or on violations listed in section 321.560,
22 subsection 1, paragraph "b", and who is not eligible for a
23 temporary restricted license under subsection 1. However,
24 the department may not issue a temporary restricted license
25 under this subsection for a violation of section 321J.2A ~~or~~
26 ~~to a person under the age of twenty-one whose license is~~
27 ~~revoked under section 321J.4, 321J.9, or 321J.12. A temporary~~
28 restricted license issued under this subsection may allow the
29 person to drive to and from the person's home and specified
30 places at specified times which can be verified by the
31 department and which are required by the person's full-time or
32 part-time employment; continuing education while enrolled in an
33 educational institution on a part-time or full-time basis and
34 while pursuing a course of study leading to a diploma, degree,
35 or other certification of successful educational completion;

1 or substance abuse treatment.

2 3. The department shall not issue a temporary restricted
3 license under this section until any applicable minimum
4 period of ineligibility for a temporary restricted license has
5 expired. If the applicant is under the age of twenty-one, the
6 applicant shall not be eligible for a temporary restricted
7 license for at least sixty days after the effective date of
8 revocation or suspension.

9 ~~b.~~ 4. A The department shall not issue a temporary
10 restricted license issued under this subsection shall
11 not be issued section until the applicant installs an
12 ~~approved~~ ignition interlock device of a type approved by the
13 commissioner of public safety on all motor vehicles owned
14 or operated by the applicant. Installation of an ignition
15 interlock device under this ~~subsection~~ section shall be
16 required for the period of time for which the temporary
17 restricted license is issued, and for such additional period
18 of time following reinstatement as is required under section
19 321J.17, subsection 3. However, a person whose driver's
20 license or nonresident operating privilege has been revoked
21 under section 321J.21 may apply to the department for a
22 temporary restricted license without the requirement of
23 an ignition interlock device if at least twelve years have
24 elapsed since the end of the underlying revocation period for
25 a violation of section 321J.2.

26 ~~3.~~ 5. If a person required to install an ignition interlock
27 device operates a motor vehicle which does not have an approved
28 ignition interlock device or if the person tampers with or
29 circumvents an ignition interlock device, in addition to other
30 penalties provided, the person's temporary restricted license
31 shall be revoked.

32 ~~4.~~ 6. A person holding a temporary restricted license
33 issued by the department under this section subsection 2 shall
34 not operate a motor vehicle for pleasure.

35 ~~5.~~ 7. A person holding a temporary restricted license

1 issued by the department under this section shall not operate
2 a commercial motor vehicle on a highway if a commercial
3 driver's license is required for the person's operation of the
4 commercial motor vehicle.

5 ~~6.~~ 8. A person holding a temporary license issued by the
6 department under this ~~chapter~~ section shall ~~be prohibited from~~
7 ~~operating~~ not operate a school bus.

8 ~~7.~~ 9. Notwithstanding any provision of this chapter to
9 the contrary, the department may issue a temporary restricted
10 license to a person otherwise eligible for a temporary
11 restricted license under this section, whose period of
12 revocation under this chapter has expired, but who has not met
13 all requirements for reinstatement of the person's driver's
14 license or nonresident operating privileges.

15 ~~8.~~ 10. A person who tampers with or circumvents an ignition
16 interlock device installed as required in this chapter and
17 while the requirement for the ignition interlock device is in
18 effect commits a serious misdemeanor.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to Iowa's operating-while-intoxicated
23 (OWI) law and driver's license revocations, temporary
24 restricted licenses, and ignition interlock devices.

25 FIRST OFFENSE OWI — FINE. Current law requires a court to
26 assess a fine against a person convicted of a first offense
27 operating-while-intoxicated offense. The court has the
28 discretion to waive up to \$625 of the fine if no personal or
29 property injury resulted from the offense. The bill requires
30 the court to waive \$625 of the fine, if no personal injury
31 resulted from the offense, when the defendant receives a
32 temporary restricted license.

33 DUPLICATIVE LICENSE REVOCATION PROVISIONS. The bill
34 eliminates duplicative provisions relating to court-ordered
35 license revocations for first, second, and third and

1 subsequent violations of Code section 321J.2 (Iowa's OWI law).
2 The bill maintains provisions relating to administrative
3 license revocations currently imposed by the department of
4 transportation pursuant to Code sections 321J.4 (license
5 revocations based on criminal OWI offenses), 321J.9 (license
6 revocations relating to refusals to submit to chemical
7 testing), and 321J.12 (license revocations based on test
8 failures).

9 INELIGIBILITY PERIODS — TEMPORARY RESTRICTED LICENSES
10 AND IGNITION INTERLOCK DEVICES. The bill eliminates certain
11 provisions in Code sections 321J.4 (license revocations
12 based on criminal OWI offenses), 321J.9 (test refusals), and
13 321J.12 (license revocations based on test result failures)
14 that currently provide eligibility restrictions for temporary
15 restricted licenses and requirements for the installation of
16 ignition interlock devices, dependent upon the number of prior
17 offenses, blood alcohol level, and whether the offense involved
18 an accident causing personal injury or property damage. The
19 ineligibility periods for a temporary restricted license are
20 maintained for third and subsequent OWI offenses and for
21 offenses involving a death.

22 TEMPORARY RESTRICTED LICENSE RESTRICTIONS. Current law
23 provides that the department may issue a temporary restricted
24 license to a person whose noncommercial driver's license is
25 revoked dependent upon the circumstances under Code section
26 321J.4, 321J.9, or 321J.12 to allow a person to drive to and
27 from the person's home and specified places at specified times
28 which are required by the person's full-time or part-time
29 employment, continuing health care, continuing education
30 while enrolled in an educational institution on a part-time
31 or full-time basis and while pursuing a course of study
32 leading to a diploma, degree, or other certification of
33 successful educational completion, substance abuse treatment,
34 court-ordered community service, and appointments with the
35 person's parole or probation officer. The bill expands

1 this list to include transport of the person's dependent
2 minor child for child care and educational activities under
3 certain circumstances, church or other religious institution
4 attendance, or to go to the grocery store or get gas.